

rendered valid; and it is on that account that I strike out the word "valid." Protestant clergymen are divided on the question. Many do not think marriage between a man and his deceased wife's sister is right. There are a great number of laymen of a different opinion; and these would not be willing to leave it to their clergy to decide for them the question of the propriety of such marriages, and I propose to protect their right of private judgment. I think, if we have the power to pass this proviso, we could not meet the views of various classes by doing so. We should find ourselves more free, and give less offence to the consciences of the people by leaving the proviso out.

MR. WILLIAMS: It seems to me that, if the amendment of the hon. member for Bothwell passes, clergymen who have religious scruples against performing such marriage ceremony might perhaps be under the impression that the law intended that it should be compulsory upon them to perform the marriages which this Act legalises. Under these circumstances, and knowing, as I do, that many of the clergy of the Church of England felt that they could not do so without breaking their ordination oath, I cannot see why the last proviso should be also struck out. I therefore move in amendment to the amendment that the second proviso be retained.

MR. WELDON: This difficulty it seems has arisen from the division of powers under the British North America Act. The proposed Bill declares the marriage with a deceased wife's sister to be legal. With regard to the members of the Roman Catholic Church, they stand in a different position. They rely on their dispensation to render the marriage valid, but, with regard to the Church of England and Presbyterian Church, many of their ministers have conscientious scruples as to its legality, and they are placed in an awkward position. On the one hand, it is declared by this law to be legal to solemnise these marriages, and on the other, a clergyman, believing it to be a violation of the ordination vow, cannot perform such a marriage; therefore, it seems to me that it would be wise to retain that provision, a negative provision, not to be compulsory on them. A clause might be prepared and put in by

which men holding conscientious views, feeling that they cannot perform the ceremony, may be relieved.

MR. CASEY: I do not think any such provision is necessary. This is only a permissive Bill. It does not say that a clergyman must marry the parties, but it says he may marry them, and I do not think there is any danger of a clergyman being compelled to solemnise such a marriage against his conscience.

SIR JOHN A. MACDONALD: I think the question is this: Does this House believe that, under the terms of the Confederation Act, we have the right to adopt this clause? If we have not, we should not adopt it, for it might destroy the Bill altogether. Supposing the Bill was carried, and anyone should bring it up before Her Majesty's Government, within two years, and show that the Bill was *ultra vires*, it would be disallowed. As the hon. gentleman who spoke last says, there is no law compelling any clergyman to marry those persons, and there is no use of running a chance of defeating the Bill, when I do not think we have that power.

MR. ANGERS: I am in favour of the principle of the Bill, because I find that its enactments will make the law of the land in accordance with the law of my Church, when proper dispensations are obtained. I am also in favour of it because I have heard from the best authorities in this House that, according to the Church of England, such a marriage is only voidable and not void. I would, however, prefer retaining the proviso. To remove the proviso is to offer perhaps an inducement to people to infringe the laws of their own Church. With the proviso, they must first remove the impediments which may exist according to the rites of the congregation to which they belong. Article 127 of the Civil Code of Quebec will still be in force in that Province. The impediments imposed by the Church of Rome, which have to be removed before such marriage, can be celebrated in so far as Roman Catholics are concerned. I do not, however, find the same protection in other Provinces. The impediment removed from Article 125 will fail as a general impediment without Article 127. I think it would not be infringing upon the powers and limits of Local Legislatures if we stated that marriage with a deceased